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Honorable Brian D. Lynch

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

HEILPRIN, Leah Nicole,

Debtor.

HEILPRIN, Leah Nicole,

Plaintiff,

v.

**UNITED STATES OF AMERICA
ACTING THROUGH THE U.S.
DEPARTMENT OF EDUCATION, et.
al.**

Defendant.

Number 22-41287

Adversary Number: 22-04042

**EX PARTE JOINT MOTION FOR
ENTRY OF CONSENT JUDGMENT
DECLARING DISCHARGEABLE
PLAINTIFF'S STUDENT LOAN DEBT**

Under Local Bankruptcy Rule 9013-1(g), Plaintiff Leah Nicole Heilprin (Plaintiff) and Defendant United States of America, acting through the U.S. Department of Education (DOE), jointly move ex parte to resolve this adversary proceeding with a Consent Judgment that declares dischargeable Plaintiff's student loan debt held by DOE, as described in the Certificate of Indebtedness attached hereto as Exhibit A (the Debt). The Debt should be declared dischargeable under 11 U.S.C. § 523(a)(8) because repaying the Debt would be an "undue hardship," as interpreted by the Ninth Circuit. E.g., *Educ. Credit Mgmt. Corp. v. Nys (In re Nys)*, 446 F.3d 938, 941, n.1 (9th Cir. 2006) (summarizing three-prong *Brunner* test adopted by Ninth

EX PARTE JOINT MOTION FOR ENTRY OF CONSENT
JUDGMENT DECLARING DISCHARGEABLE PLAINTIFF'S
STUDENT LOAN DEBT- 1

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1 Circuit). The parties stipulate to the following facts that support that conclusion:

- 2 1. On December 16, 2022 (doc 21), this Court confirmed Plaintiff's Chapter 13 Plan under 11
3 U.S.C. § 1325, in Case No. 22-41287-BDL.
- 4 2. In November 2022, the United States Department of Justice, in coordination with DOE,
5 issued "Guidance for Department Attorneys Regarding Student Loan Bankruptcy
6 Litigation" (Guidance), available at:
7 <https://www.justice.gov/civil/page/file/1552681/download> (last visited May 23, 2023).
8 Pursuant to that Guidance, Plaintiff submitted to DOE an Attestation in Support of Request
9 for Stipulation Conceding Dischargeability of Student Loans (Attestation). The following
10 facts and conclusions are drawn from information Plaintiff provided in her Attestation.
11
- 12 3. Plaintiff cannot maintain a minimal standard of living and also repay the Debt. The IRS
13 National and Local Standards for necessary living expenses, without any retirement
14 contributions exceed Plaintiff's after-tax income. Plaintiff has no free monthly cash flow
15 with which she can afford to repay the Debt.
- 16 4. Plaintiff's present inability to repay the Debt will likely persist for a significant portion of
17 the Debt's repayment period. Some of Plaintiff's student loans were first disbursed in 2014.
18 Further, Plaintiff received her AA degree in 2022 in coding from Seattle Community
19 College but did not graduate from the other schools she attended. Despite Plaintiff's efforts
20 over the past nine years to build a career and improve her salary, she remains in a relatively
21 low-paying job that does not cover basic living expenses.
22
- 23 5. Plaintiff could not reasonably be expected to enroll in an income-based repayment plan
24 when her income was insufficient to meet her basic living expenses apart from any student
25 loan payments.

1 6. Plaintiff does not have assets available to repay the Debt. Her October 2022 bankruptcy
2 schedules show she has no non-exempt equity in any property.

3 7. Plaintiff and DOE shall bear their own costs and attorney fees related to this action. For the
4 foregoing reasons, repaying the Debt would impose an “undue hardship” on Plaintiff. The
5 parties jointly request that the Court enter the “Ex Parte Consent Judgment Declaring
6 Dischargeable Plaintiff’s Student Loan Debt” under 11 U.S.C. § 523(a)(8).

7 DATED this 11th day of July 2023. Respectfully submitted,

8 /s/ Travis Gagnier
9 TRAVIS GAGNIER, WSBA #26379
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15 and

16 /s/ Kyle A. Forsyth
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